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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

TONY HINES,

Plaintiff,

v.

B. FAULKNER,

Defendant.

Case No. 2:19-cv-01203-GMN-EJY

**DEFENDANT'S UNOPPOSED
MOTION TO EXTEND THE
DISPOSITIVE MOTION DEADLINE
(SECOND REQUEST)**

Defendant, Bob Faulkner, by and through counsel, Aaron D. Ford, Attorney General for the State of Nevada, and Dawn R. Jensen, Deputy Attorney General, hereby requests this Court grant this unopposed motion to extend the dispositive motion deadline. The Defendant moves to extend the time to complete dispositive motions twenty days to March 10, 2022, or in the alternative twenty (20) days from the Order re the outcome of the pending Motion to Compel.

I. BACKGROUND

Plaintiff Tony Hines (hereinafter "Hines") is currently incarcerated at Northern Nevada Correctional Center (NNCC). On July 10, 2019, Plaintiff filed a Civil Rights Complaint. ECF No. 4. On June 18, 2020, this Court issued a screening order. ECF No. 3. After screening, the Court ordered two claims alleging Eighth Amendment deliberate indifference to serious dental needs, may proceed against Defendant Faulkner and Doe

defendants. Plaintiff alleges in June or July 2018, after dental staff removed his teeth, defendants failed to prescribe a soft diet causing humiliation, shame, and disfigurement. Plaintiff also alleges he suffered delay in getting dentures as they were not received until seven months after removal of his teeth. ECF No.3 at 3.

A scheduling order was issued on August 20, 2021, setting the deadline for discovery to close on November 18, 2021, and for filing dispositive motions by December 20, 2021. ECF No. 17 at 3. On November 23, 2021, Plaintiff filed a Motion to Compel seeking Defendant to produce a list of names. ECF No. 22 at 4. Defendant filed an opposition on December 7, 2021. ECF No. 23. Plaintiff filed a reply on December 13, 2021. ECF No. 29. Due to the discovery dispute, on December 9, 2021, Defendant filed an Unopposed Motion for Extension requesting to move the dispositive deadline from December 20, 2021, to February 18, 2022. Hines was not comfortable with a Motion to Stay, and the parties presumed a sixty-day extension would be sufficient to determine the outcome of the discovery dispute. To date, this discovery dispute remains pending.

Defendant now moves to extend the deadline to complete dispositive motions twenty (20) days to March 10, 2022. Alternatively, the defendant proposes an extension of twenty (20) days from the Order regarding Plaintiffs Motion to Compel. Good cause supports this extension request as more particularly set forth herein below.

II. LEGAL STANDARD

Motions to enlarge time are governed by FED R. CIV. PROC. 6(b) and Nevada Local Court Rule 26-3.¹

(b) Extending Time.

(1) In General. When an act may or must be done within a specified time, the court may, for good cause, extend the time:

(A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires;
or

¹ On April 17, 2020, the Federal District Court of Nevada amended the Local Rules. This motion cites to the most recent version.

(B) on motion made after the time has expired if the party failed to act because of excusable neglect.^[2]

And

LR 26-3. EXTENSION OF SCHEDULED DEADLINES

A motion or stipulation to extend any date set by the discovery plan, scheduling order, or other order must, in addition to satisfying the requirements of LR IA 6-1, be supported by a showing of good cause for the extension. A motion or stipulation to extend a deadline set forth in a discovery plan must be received by the court no later than 21 days before the expiration of the subject deadline. A request made within 21 days of the subject deadline must be supported by a showing of good cause. A request made after the expiration of the subject deadline will not be granted unless the movant also demonstrates that the failure to act was the result of excusable neglect. A motion or stipulation to extend a discovery deadline or to reopen discovery must include:

- (a) A statement specifying the discovery completed;
- (b) A specific description of the discovery that remains to be completed;
- (c) The reasons why the deadline was not satisfied or the remaining discovery was not completed within the time limits set by the discovery plan; and
- (d) A proposed schedule for completing all remaining discovery.^[3]

III. LEGAL ARGUMENT

A. Local Rule 26-3 Requirements

1. The Discovery Completed To Date

To date, the parties have completed the following discovery: Plaintiff mailed Request for Production of Documents, Request for Admissions, and Request for Interrogatories on September 17, 2021. Defendant mailed Responses to the Requests for Admissions on October 13, 2021. The parties agreed to a brief extension and Defendant's Responses to Request for Production of Documents and Response to Request for Interrogatories were mailed November 9, 2021, and November 10, 2021 respectively.

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² Fed R. Civ. Proc. 6(b)

³ Nevada Local Court Rules 26-4

1 **2. Discovery That Remains To Be Completed**

2 Discovery is complete in this action. However, Plaintiff's Motion to Compel in which
3 Hines is seeking to identify other 'possible' defendants remains pending. Depending on the
4 outcome, if the Court finds additional discovery is warranted, Defendants may be required
5 to provide additional discovery.

6 **3. The Reason The Dispositive Motion Deadline Cannot Be**
7 **Completed**

8 The reasons why Defendant is unable to adhere to the dispositive motions deadline
9 is due to a) demands of Deputy Attorney General (DAG) Jensen's current caseload and b)
10 the pending Motion to Compel creates some uncertainty.

11 Counsel for the defense is assigned a current caseload of approximately forty-two
12 matters. *See* Exhibit A (Declaration of Counsel). In the preceding two weeks, counsel has
13 prepared for and attended five mediations and/or settlement conferences, one being a global
14 settlement involving six matters, prepared for and attended a Las Vegas Justice Court
15 trial, and filed two Answers. In the next two weeks, DAG Jensen is required to: prepare
16 for and attend four more mediations and/or settlement conferences, file another Motion for
17 Summary Judgment by February 17, 2022, complete a response to a Motion to Compel,
18 complete a Response to a Temporary Restraining Order, and finalize settlement documents
19 in other recently resolved matters. Also, DAG Jensen is sharing in additional tasks and
20 case reassignments, due to Office of Attorney General (OAG) staff out on leave. Lastly,
21 DAG Jensen is a mother to young children which presents challenges in completing
22 anything after hours.

23 It should also be noted, there is still a pending discovery dispute in this case.
24 Plaintiff is seeking to identify new defendants, and it is possible additional discovery may
25 be ordered. DAG Jensen intends to proceed with filing a dispositive motion by March 10,
26 2022, but acknowledges that waiting until the outcome of the pending discovery dispute
27 could be advantageous and would not prejudice either party. Depending on the outcome of
28 the discovery dispute, additional parties could be joined, and legal arguments pertaining

to those parties could be included in an all-encompassing Motion for Summary Judgment. Accordingly, the Defendant moves to extend the dispositive motions deadline to March 10, 2022, or in the alternative a twenty-day deadline from an Order resolving the discovery dispute.

4. Proposed Discovery Schedule

Deadline for Dispositive Motions: March 10, 2022, or in the alternative twenty (20) days from the Order deciding Plaintiff's Motion to Compel.

Deadline for Joint Pretrial Order: The joint pretrial order is due thirty (30) days after the entry of the Court's order on dispositive motions.

B. Good Cause Supports The Extension

This Court should find good cause supports the extension. Specifically, DAG Jensen has been diligent in meeting her prior obligations. At the same time, she is committed to a multitude of upcoming deadlines and responsibilities from an active and increasing caseload. Due to a temporary staff deficit, extra tasks, deadlines, and last-minute requests for assistance are expected. Also, working at home after hours is not practicable. Thus, these factors prevent counsel from being able to meet the dispositive motion deadline. There is also the consideration that there is an unresolved discovery dispute. While DAG Jensen intends to meet a twenty-day extension, it would not prejudice either party to grant a twenty-day extension from the Order deciding the pending discovery dispute so that the outcome of this issue can be factored into any subsequent argument.

C. Meet And Confer

On February 9, 2022, DAG Jensen spoke with Hines. She indicated that due to the demands of her workload and an inability to meet the deadline, she requested a twenty-day extension to file dispositive motions. Hines graciously agreed and indicated he would not be opposed to my request. Hines expressed his only concern was that any extension would not affect the pending Motion to Compel. DAG Jensen informed Hines the extension will have no effect on Plaintiff's Motion to Compel.

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1 **IV. CONCLUSION**

2 Defendant respectfully requests this Court grant the Unopposed Motion to Extend
3 the dispositive motion deadline twenty (20) days to March 10, 2022, or in the alternative
4 twenty (20) days from the Order re the outcome of the pending Motion to Compel.

5 DATED this 10th day of February, 2022.

6 AARON D. FORD
7 Attorney General

8 By: /s/ Dawn R. Jensen
9 DAWN R. JENSEN (Bar No. 10933)
Deputy Attorney General

10 *Attorneys for Defendant*

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12 **IT IS SO ORDERED.**

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15 **U.S. MAGISTRATE JUDGE**

16 **Dated: February 10, 2022**
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